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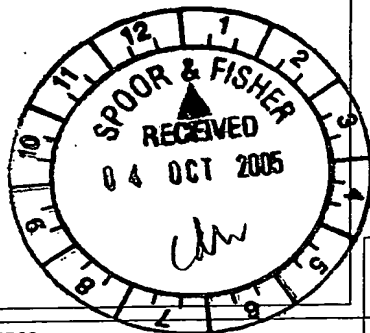
PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

Donald, Heather June
SPOOR & FISHER
PO Box 41312
2024 Craighall
AFRIQUE DU SUD



NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(PCT Rule 71.1)

Date of mailing
(day/month/year) 26.09.2005

Applicant's or agent's file reference
PA134498/PCT

IMPORTANT NOTIFICATION

International application No.
PCT/IB2004/002049

International filing date (day/month/year)
21.06.2004

Priority date (day/month/year)
20.06.2003

Applicant
CH CHEMICALS (PTY) LTD

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the International
preliminary examining authority:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized Officer

Smits, A
Tel. +31 70 340-3596




PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PA134498/PCT		FOR FURTHER ACTION		See Form PCT/PEA416
International application No. PCT/B2004/002049		International filing date (day/month/year) 21.06.2004		Priority date (day/month/year) 20.06.2003
International Patent Classification (IPC) or national classification and IPC C04B28/16, C04B26/16, C04B40/06				
Applicant CH CHEMICALS (PTY) LTD				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 7 sheets, as follows:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 31.05.2005		Date of completion of this report 26.09.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Burtan, M-M Telephone No. +31 70 340-8972		



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/IB2004/002049

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-12 as originally filed

Claims, Numbers

1-65 received on 30.05.2005 with letter of 30.05.2005

Drawings, Sheets

1/1 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/002049

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-65
	No: Claims	-
Inventive step (IS)	Yes: Claims	1-65
	No: Claims	-
Industrial applicability (IA)	Yes: Claims	1-65
	No: Claims	-

2. Citations and explanations (Rule 70.7):

see separate sheet

I. Article 41(2) PCT

1. The Applicant has filed amended claims 1 - 65, wherein the independent claims 1, 22, 39 and 56 now include the feature "characterised in that the % mass of the water-based dispersion of polyurethane in the wet mixture ranges between 40 and 80%". This feature is supported by the original application (see page 2, second paragraph and original claims 2, 24 and 42) and therefore meets the requirements of Article 41(2) PCT.

II. Re. Item V

1. The subject-matter of amended independent claims 1, 22, 39 and 56 differs from the disclosure of document D1 in that the mass percentage of the water-based dispersion of polyurethane in the wet mixture ranges between 40 and 80%. The subject-matter of amended claims 1, 22, 39 and 56 is therefore new (Article 33(2) PCT).

2. The problem to be solved by the present invention may be regarded as the provision of a thin-sprayed layer with improved strength and waterproofing properties. The solution to this problem proposed in amended claims 1, 22, 39 and 56 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons: a liner composition with 40-80 wt.% polyurethane is neither disclosed, nor hinted towards in the prior art. The composition of the present invention has a proportion of polyurethane at least 8 times greater than the maximum disclosed in D1, therefore the skilled person would not consider the solution of the present invention, without the exercise of inventive skill, when faced with the above-mentioned problem.

3. Claims 2 - 21, 23 - 38, 40 - 55 and 57 - 65 are dependent on claims 1, 22, 38 and 56 respectively, and as such also meet the requirements of the PCT with respect to novelty and inventive step.